മിസ്റ്റർ എ. എൽ. ജേക്കബ്ബ് *(Commissioner of Police)*.— അനേഷിക്കാതെ പറയുവാൻ നിവൃത്തിയില്ല.

Resolution —All Cochin Co-operative Conference—Orders on.

75. Mr. T. C. Iyyukutty *(Pazhanji)*.—Will the Government be pleased to state whether any orders have been passed on the resolutions passed in the All Cochin Co-operative Conference held at Nemmara recently?

Mr. K. Narayana Menon *(Registrar of Co-operative Societies)*.—They are under the consideration of the Government.

Mr. President.—Tomorrow being Amavasi the Council will begin at 12 noon and there will be no questions and answers.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—In that case, Sir, at least some questions if not all intended for tomorrow may be incluced in Friday's questions and answers.

Mr. President.—That will be considered by the Secretary to Government.

The Cochin Municipal Bill (Contd.)

Mr. President.—The motion before the House is that clause 67 stand part of the Bill.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—I wish to say a few words in order to clarify the position of Government. There are a series of amendments relating to companies tax and profession tax. This is a subject over which there has been some controversy and I hope Hon'ble Members will understand what exactly is the position of Government which happens to be somewhat divergent. According to the Bill as reported by the Select Committee both the profession tax and companies tax are retained in section 67 (1). Now with regard to companies tax of late there were some practical difficulties and as a result the schedule to our Municipal Act which deals with the companies tax had to

LIBRARY ARCHIVES Kerala Legislative Assembly

be repeatedly amended. The net result of it is that the law as it exists in Cochin is practically the same law as suggested by the Select Committee in section 67 (1). In the Madras District Municipalities Act these two classifications, companies tax and profession tax, have been taken away and both of them have been placed more or less on a professional or earning basis. The distinction of taxing a company based on its capital irrespective of the consideration of the amount of income that it may be earning was wiped out at the time of the passing of the Madras District Municipalities Act that is for the moffusil of the Presidency. With regard to the City Municipal Act the profession tax having no relation to the professional earning of the company has been retained in a rather restricted form. As I said in the beginning the Select Committee does retain the provision in the original bill which happen to be in conformity with the existing law in the State. After careful consideration the Government are of opinion that it is not desirable to retain these two taxes as independent taxes. They are inclined to think that it would be equitable, fair and practicable for several considerations to deal with these taxes as they have been dealt with in the Madras District Municipalities Act, namely to deal with them under one head, namely profession tax. The profession tax, as Hon'ble Members are aware, is a graduated tax dependent not upon capital but upon actual considerations of earning or profit or income by individuals or companies. This position of the Government requires several amendments. Fortunately most of them have been submitted by the Member for Trichur.

Then let me make reference to one amendment submitted by the Member for Ernakulam South. That amendment is to safeguard the position of the Ernakulam Municipality so as to give special exemption to the Ernakulam Municipality so far as this fusion of the two taxes is concerned. I am saying these things so that I may avoid to make speeches every moment and I thought it would be better to make Government position clear. Government consider there is no occasion for such an invidious distinction on behalf of one town which though it is the capital town is not an industrial, populous or commercial town, although it has got the distinction of being the capital town of the State. To equate it to the metropolis of the Madras Presidency whose population is 20 times as much as that of Ernakulam, probably more, to confer upon Ernakulam town the privilege that has been granted by the Madras City Municipalities Act of collecting companies tax while at the same time ignoring equal or more commercially important town on the opposite,

LIBRARY ARCHIVES Kerala Legislative Assembly

Mattancheri, appears to be not reasonable or fair. From the point of view of manufacturing commercial concerns probably Trichur town stands definitely on a higher footing than the Ernakulam town. So that considering from any view point that are relevant for an equitable decision of the matter, the Government are not satisfied that this distinction sought to be introduced by the Hon'ble Member for Ernakulam, whatever may be reasons that have prompted him in tabling his amendment, can be upheld by them and hence Government will have to oppose it.

With regard to the other amendments by the Hon'ble Member for Trichur North, Government are in practical agreement with this matter. No doubt just one or two amendments more or less of an important character may have to be moved over and above those amendments to fill up the gaps. Those will be moved in proper time.

Mr. President.—Regarding this matter the policy of Government has been explained at length by the Hon'ble the Law Member. It has been repeatedly brought to my notice that under the Bill drafted by the Select Committee, if a company has got a registered office in Madras and has got an office at Ernakulam and the paid up capital is not less than 10 lakhs of rupees, they have to pay to the municipality Rs. 500. Recently one big company brought to my notice that the total income earned by them is Rs. 300 for the year and if we call upon them to pay a tax of Rs. 500 what will be the result? As people interested in the commercial development of this place, especially in view of the importance of the Port, we are anxious that we must afford every facility possible to make it worth while for big companies to come and open offices here. Ultimately that will be better for developing the economic position not only of the State but also of the Ernakulam Municipality. It appears to the Government that the level of companies tax as prevailing now and as embodied in the Bill is rather in excess and is likely to discourage big companies opening their offices in Ernakulam, so that Government propose to support those amendments which will take away this companies tax based upon paid up capital and press for a profession tax or a tax based upon the earning capacity of the company within the Municipal area.

Mr. Sivarama Menon has always held the view that whatever might be the position with regard to other Municipalities in the State, the Ernakulam Municipality must be allowed to

LIBRARY ARCHIVES Kerala Legislative Assembly

levy a taxation which is enjoyed by the Madras Municipal Corporation. Beyond the fact that this happens to be the capital of the State, there is no comparison between Madras and Ernakulam. For one thing the justification for allowing them to impose a very much higher level of taxation on these Companies is the fact that the Madras Corporation is giving the citizens amenities on a scale which cannot be contemplated by the Ernakulam Municipality. So that the level of taxation that a Municipality should resort to should have some proportion to the amenities that they offer. From the point of view of amenities which the Ernakulam municipality is offering there is no comparison to what is offered by certain District Municipalities in Madras Presidency. Therefore the Government cannot agree with the contention that Ernakulam municipality should be placed on a different footing from the other municipalities of the State. The main fundamental fact is that we should not by imposing a high scale of companies tax and discourage big companies from opening branches in Cochin. The Hon'ble Member may consider this.

Mr. M. Sivarama Menon *(Ernakulam South).*—Before moving formally my amendment, in the light of the statement made on behalf of the Government, I will explain my position to the House. When you hear that Ernakulam is the capital of the State you need not attach any commercial importance to it because Trichur is a more important commercial centre than Ernakulam. But I hold the view that the privileges enjoyed by other capitals should also be extended to Ernakulam so long as it is the capital.

Section 110 of the Madras City Municipal Act provides for the levy of companies tax. It was brought to the notice of this House that the amenities offered by the Ernakulam Municipality are far less. The population of Madras is much bigger than that of Ernakulam and I had also occasion to point out to the Government that although there is a larger population and better amenities in Madras our scale of taxation is only 1/4 of the Madras scale of taxation. Ernakulam affords at least 1/4 of the amenities that Madras gives. When 1000 rupees is the tax fixed in the Madras City Municipal Act our schedule contemplates the levy of only a maximum of Rs. 250, and that is for a company with a paid-up-capital of 10 lakhs of rupees. There was a schedule attached to our Act under which the scale of taxation was brought to the standard of the Madras level, that is Rs. 1000 and 500. That happened to be at a time when the idea of the 4th stage of the Harbour was in full bloom.

LIBRARY ARCHIVES Kerala Legislative Assembly

When we look at the amenities offered by Madras we have also to take into consideration the level of taxation prevalent there. I may bring to the notice of the Hon'ble members that by means of a Proclamation the rate of companies tax prevalent, viz., Rs. 1000 and 500 has been removed from the Statute Book. Now what remains in the Statute Book is a maximum companies tax of Rs. 250. As a matter of fact on account of the fear that the Municipal Act—I may in this connection say that copies of it are not available in the Government Press—now in force contains the old rates of 1000 and 500 very many companies are afraid of starting branches in Cochin. Many big companies in Madras, I may say, are now under that impression. If they know that it is only Rs. 250 the position would have been different. I may say that in Ernakulam there are only two or three companies which will have to pay the maximum companies tax. The paid up capital of the Standard Oil Corporation is more than 1000 million dollors. Such a company will have to pay only Rs. 250. It is also noteworthy in this connection that they are occupying a site which is a very important one. When compared to the rate of taxation these companies will be subject to in Trivandrum and Madras our scale is only very moderate. Trivandrum cannot be said to be the trade centre of Travancore. For that matter Alleppey and Quilon stand on a better importance than the town of Trivandrum.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I think the Companies tax in Trivandrum is only 500 rupees.

Mr. M. Sivarama Menon *(Ernakulam South).*—Now it is only Rs. 500. Therefore my point is only this. Because Ernakulam happens to be the capital with the advantages of a port we must be entitled to levy this smaller scale of tax. When Madras and Trivandrum levy company's tax.

Then another thing. It will be found that under the new Bill scavenging fee which is now a matter of contract has now been made a tax.

Mr. President.—Is this Companies Tax in addition to the profession tax ?

Mr. M. Sivarama Menon *(Ernakulam South).*—No. If a company has been assessed to companies tax, we cannot certainly assess them for profession tax. I may bring to the notice of this House that under the new Act scavenging fee has been

LIBRARY ARCHIVES Kerala Legislative Assembly

made a tax while formerly it was a matter of contract. Now there are nearly four thousand houses in the Ernakulam Municipality. Out of that only 1000 houses have scavenging arrangements and they alone need pay now. But under the new Act it is made a tax which along with the property tax will be collected and this tax also is a charge on the property. Now the house tax is 4 per cent and the water tax is 2½ per cent. That goes to make a total of 6½ per cent. Even the levy of a 2 per cent more for the purpose of scavenging may not be sufficient to make the department self supporting. Therefore automatically the whole tax will have to be raised from 6½ per cent to 8½ per cent.

If the profession tax is substituted for companies tax in this Municipality, big companies like the Standard Oil Corporation may have only to pay a profession tax of Rs. 15 or 20. We thought that the companies tax is an equitable item of taxation but we almost realise that the levy of companies tax from every branch of a company which has not the principal place of business in Cochin is hard and therefore to remove that inequity proposals also were made that such companies need pay only profession tax as in the Madras Presidency and Travancore.

Dr. A. R. Menon (*Pallippuram*).—Does this not affect the banks?

Mr. M. Sivarama Menon *(Ernakulam South)*.—The Catholic Syrian Bank has to pay only Rs. 50 a half year and the Chaldean Syrian Bank Rs. 15. I may say in this connection that only very big companies with enormous paid-up-capital will have to pay this companies tax of Rs. 250. The other companies will be assessed only to profession tax. If the payment of Rs. 250 by big companies as companies tax will stand in the way of starting new companies in Cochin then I have no answer for that. My submission to the Hon'ble Members of this House is that the proposition just now stated by me is a workable one. If this companies tax is not allowed to be collected which now amounts to nearly Rs. 6,000 I am afraid that the Municipality will be compelled to resort to some other item of taxation. My own personal experience is that except a few persons in the town who can stand this burden of additional taxation the majority cannot afford to pay any additional tax at this time. There are several houses assessed to property tax. There are persons who may agree to an assessment of some profession tax in their name for the sake of prestige. If this

LIBRARY ARCHIVES Kerala Legislative Assembly

proposal of mine is to be accepted the interests of the State does not suffer. It is not an invidious distinction as was stated by the Hon'ble Member for Law. It can never be an individous distinction as it is recognised by the Madras City Municipal Act as well as the Trivandrum City Municipal Act. It is the privilege extended to a capital city. So long as Ernakulam remains to be the capital this privilege has to be given to Ernakulam. The moment it ceases to be so then this privilege also ceases with that. I am afraid that the big companies are labouring under a mistake and that is why they fear of starting new business in Cochin. My humble submission is that it will be meaningless to allow the big companies to escape this taxation of the town especially when they have the advantages of a good Harbour. I once more appeal to the Hon'ble Members so that they may not be carried away with the idea that this is an invidious distinction shown to the Ernakulam Municipal Council. Even if it is regarded as an invidious distinction it is on account of the fact that Ernakulam is the Capital and as I submitted before that privilege will cease to be given to this city the moment it is not the capital. If this request of the Ernakulam Municipal Council is not granted it will lead to disastrous consequences in the sense that the poor people will be put to a lot of difficulties on account of the increase in the rate of taxation that may have to be resorted to. I do not want to shoulder the responsibility of raising the rate of taxation and it was the condition of the poor people that actuated me to have recourse to this amendment. I certainly take it that the Government will appreciate the difficulty in which this Municipality is placed because the profession tax in substitution of companies tax will be not more than one quarter of the company tax.

Mr. T. S. Balarama Ayyar *(Trichur North).*—May I know what is the companies tax realised in this Municipality?

Mr. M. Sivarama Menon *(Ernakulam South).*—Just at present it is Rs. 2,880 for a half year. It is steadily increasing. In the first half of 1112 it was 2,315, in the second half it rose to 2,860 and now it is 2,880. If this Companies tax is introduced only big concerns like the Standard Oil Corporation, the Tatas, the Central Bank of India, the Travancore National and Quilon Banks will have to pay this tax.

Mr. T. S. Balarama Ayyar *(Trichur North).*—You say that your income is Rs. 6,000 per year out of this companies tax now. How much will it be reduced if profession tax introduced?

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. Sivarama Menon *(Ernakulam South).*—It will be reduced by three-fourths. If this profession tax is introduced the Standard Oil Corporation will have to pay only 15 or 20 rupees because in calculating the profession tax they take into account the actual quantity of petrol sold in the Ernakulam town. My idea is that we will be made poor by at least 4,000 rupees. If you only consider this question sympathetically I am sure neither the Government nor the Hon'ble non-official members will say that this Companies tax should be taken away, when all its rigours have been taken away.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Take the case of Batas. They have a show room in the bazaar. . . . .

Mr. M. Sivarama Menon *(Ernakulam South).*—A branch is not a mere show-room.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Now you say all these things, afterwards all sorts of difficulties will be created.

Mr. M. Sivarama Menon *(Ernakulam South).*—Certainly the Government have powers if we go wrong. A mere show room can never be a branch. For a branch there must be an office and there should be some officer responsible. He must also have certain powers to carry on the business.

Mr. V. K. Krishnankutty *(Anthikkad).*—It is said that one company has left the State on account of this.

Mr. M. Sivarama Menon *(Ernakulam South).*—It is Messrs. Addison and Company.

Mr. President.—Representations were made to me by a well established Insurance Company. There is no necessity of going into the names of the companies. A chief agent was appointed by a well established Insurance Company in this place. It is said that they were asked to pay Rs. 500 by way of tax when they had only a net profit of Rs. 350.

Mr. M. Sivarama Menon *(Ernakulam South).*—I may say that so far as my knowledge goes there is no such case. I shall try to find out if there is one such case. I am sure that some mis-representations must have been made to you.

This is a matter for the sympathetic consideration of this House because we have no finances for the pressing needs. In

LIBRARY ARCHIVES Kerala Legislative Assembly

demanding Companies tax for Ernakulam we are concerned with the Companies tax that are being levied in the capital city of Madras and Trivandrum and not with the sort of amenities that are being provided in Ernakulam. I have had sufficient opportunities as the head of the Ernakulam Municipal administration to argue my case before Government and I do not think that any further statement can improve the position that I have taken.

Anyhow if I do not move this amendment the Government will have to do so and hence I move that *from section 67 (1) omit "(b) a tax on companies" and re-number 'c, d, e, f' as 'b, c, d, e'.*

Mr. T. S. Balarama Ayyar *(Trichur North).*—I second it.

Mr. President.—I think there is a way of getting out of the difficulty and without obstructing the scheme of the Act. What I would suggest for the consideration of the House is this: Retain tax on Companies under section 67 and when you go to section 80 if you make there a condition to the effect that if the Council with the previous sanction of the Government decides by a resolution to levy Companies tax then you can leave the question open there. Government will not easily give permission unless they are satisfied that there is a case for doing so.

If such a condition is made in section 80 then I think that will solve the whole difficulty and the Government is not likely to make a distinction because Ernakulam is the capital of the State. If for some reasons the Government think that this tax is absolutely necessary at a future date to find funds for the Municipality probably the existing schedule will have to be changed. A different grade will have to be fixed.

Mr. M. Sivarama Menon *(Ernakulam South).*—Is this tax of Rs. 250 considered high?

Mr. President.—Certainly. Even later on when the Government give this sanction the Schedule will have to be carefully gone into. For the present I am not for allowing this Companies tax to be introduced in the Ernakulam Muninicipality. If there is any deficit, it is for the Municipality to find out ways and means.

Mr. A. Sivarama Menon *(Mulakunnathukavu).* — Of course with the help of the Government.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. President.—The House knows perfectly well the vlaue of the extra help that the Government have rendered to the Ernakulam Municipality which is much more than what is expected of them.

We shall leave the question open and keep the power in reserve; because in any case you allow all the municipalities in the State to levy a tax on the paid up capital. And I am very doubtful if the House will allow the Ernakulam municipality alone to have that privilege.

Dr. A. R. Menon *(Pallippuram.)*—It is not equitable.

Mr. President.—Therefore, leave it for the present as an open question and when the Bill is passed, the Ernakulam municipality will not have the power of levying companies tax. That will be the best solution for the present. Yon will have power to levy profession tax on companies. The clause relating to profession tax must be retained.

Mr. M. Sivarama Menon *(Ernakulam South).*—On this understanding, I need not move this amendment at all.

Amendment was by leave withdawn.

Mr. President.—Still further protection will be afforded to section 80, if it is like this:—"If the Council with the previous sanction of the Government decides that a companies tax in lieu of the profession tax shall be levied, etc. etc." So that when that power is exercised, companies tax will be in lieu of profession tax, otherwise profession tax.

Mr. T. S. Balarama Ayyar *(Trichur North.)*—Or it may be done the other way as is done in British Municipalities. A person not liable to companies tax will be liable to profession tax.

* **Mr. M. Sivarama Menon** *(Ernakulam South.)*—I beg to move the following amendment:—*In section 67 (1), line 4, omit the words 'a profession tax' and substitute for the same 'a tax on profession and other sources of income'.*

It is only to make the language clear in the light of certain observations made in the case reported in 54 Madras Law Journal, page 625. There, they observe " 'Professional income' means income derived from the actual exercise of a profession". The

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

case relates to section 81. This section is headed 'Profession Tax', and unless we amend it here, it will have no place anywhere. Receiving pension is not a profession. So that to name this as a profession tax is considered to be an anomaly and the observation of His Lordship Wallace J. is as follows:

"The section is headed 'profession tax' and the marginal note is 'license tax on professions'. The substance of section 93 (1) which is necessary for purposes of this case, as I read it, is that every one in a Municipality who resides there for 60 days in the aggregate in the half year and is in receipt of income from investments shall pay a half yearly tax on his professional income. The short point at issue is whether the phrase 'professional income' isa short compendious phrase used to include all the kinds of income specified in the sub-section, as contended by the respondent, or whether it means income derived from the actual existence of a profession as contended by the appellant. According to the respondent any income of the kind specified in the first part of the sub-section is taxable, but according to the appellant such income is only taxable if and when it can be legitimately said to have been obtained from the exercise of a profession. It cannot be gainsaid that the wording of the section is very unhappy. The word 'profession' is not defined, but evidently it was not designed to cover all the sources of income specified in the sub-section. For example, 'profession' as used in the sub-section does not mean art, trade, calling, holding an appointment, being in receipt of a pension, or an income from investments, etc."

That was the view of the Judges. But still the Municipality stuck on to the view and did not take away the title or the marginal note. That was an argument raised and was not accepted.

"It cannot be here used definitively of these other sources of income because, to define a word by using the word defined offends against all canons of interpretation. True the word is used as descriptive of the tax, but that is merely a devise to save time and multiplicity of words. The tax is on professions and other sources of income, but for purposes of short statement the tax is to be known as 'profession tax'. I am unable to agree with the respondent that when the word is again met in its adjectival form 'professional' it is used in its compendious sense and not in its definitive sense." That was the argument raised and was not accepted by the Judges. Therefore I only borrow the very words from the judgment. Of course, there is also an accusation made for the piece of legislation which was done very carelessly. I only move this amendment to get over any such difficult interpretation.

Mr. A. Sivarama Menon *(Mulankunnathukavu).*—I second it.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I have no objection.

Amendment was accepted.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Narayana Menon *(Vyttila).*—Amendments Nos. 45 and 83 may be allowed to be moved together.

Mr. President.—Amendment No. 45 may be moved now.

Mr. A. Narayana Menon *(Vyttila).*—I beg to move *that in section 67 (1), insert as (g) the following:— "and advertisement tax."*

It is a new tax that I seek to introduce in the Municipalities of the State. As the Hon'ble Members here know advertisement plays a very prominent part in the success of the business of any commercial concern. I do not want to elaborate upon this part of the question and I leave it there. If by advertising in a town a man's business progresses it is but meet and proper that he makes good to the municipality a portion of the income that he makes thereby. Similar principles were accepted by the Government when they recently enacted an amendment to the Land Acquisition Act. There they say that the future increase in the utility of the land should be taken into consideration when compensation is to be awarded for the lands acquired. I submit that the case in hand stands more or less on the same footing. Then there is another serious reason why we should tax the advertisements. These advertisements are carried on in cars and other conveyances, accompanied with music. There has been a regular nuisance felt by people with any aesthetic taste or sense of beauty. I submit that this is not a thing to be allowed to go on unchecked. We are shocked today by some advertisements that we find exhibited in all parts of the town. Marked reference was made about this by the Diwan President in one or two of his recent utterances; one such was when he opened a market at Mattancherri and another was when he addressed the students of the St. Thomas College at Trichur. He said that a better sense of responsibility was required at the hands of the public and their Councillors and incidentally it was said that it was the duty of every citizen to see that the aesthetic taste of the people should not be wounded and that it is true that we cultivate a better sense of civic responsibility. Just as a check to the spread of shocking notifications and incidentally to help Municipalities to earn a portion of what successful business men make. May I suggest that also as a source of consolation to the Hon'ble member for Ernakulam south to make up the loss that might result when company tax is substituted by profession tax, the introduction of an advertisement tax seems quite feasible and absolutely essential. This is not a new tax. In the Madras corporation

LIBRARY ARCHIVES Kerala Legislative Assembly

which has a Congress majority, they have recently introduced an advertisement tax. I submit that it is but proper that we also make provision for it. I do not say that it should be introduced all on a sudden. But the lacuna in the law may be removed so that it may be introduced whenever it is felt necessary.

Mr. C. R. Iyyunni (*Trichur South*).—I second it.

* **Dr. A. R. Menon** (*Pallippuram*).—Mr. President, Sir, I do not know whether I should really oppose or support this amendment. The member began by making an observation that it is outrageous to the aesthetic taste and philosophical speculation of the population by the din and noise produced by the advertising drums. It may be called music or noise according to the taste. Now, Sir, he found a novel remedy, that is, if you levy a tax this din and noice will become music and human noise will help them to reach a higher level of aesthetic taste. Personally I am for prohibiting this kind of advertisement, for the reason that when they go about in the streets with their placards little children run to them and accidents may arise. I can quite understand if provision is made for that. But I don't think apart from making a few coins, that we should encourage this kind of advertisements.

There is another serious objection. These men stick bills on everybody's walls and disfigure them. It is very difficult to kick them ont of this. If there is any chance of taking any action against them, of course it is too much to expect a house owner to file a suit against him. The Municipality should see that only in certain places specified or in boards put up by them such notices should be pasted and the municipality can get something for it. It should not be understood that I am opposing this amendment on the ground of aesthetic tastes.

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—Mr. President, Sir, I must also preface my remarks that I have not decided whether I should oppose or support the motion. But I agree with my friend the Hon'ble Member for Vyttila that it is a matter which has to be taken serious notice of. In view of certain things that take place almost daily in certain places for example, in the town of Trichur we find advertisements regarding the talkies there creating a regular nuisance to the traffic and all sorts of things are being done on the high roads creating a sort of disturbance to all persons who pass by and

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

creating a din of noise and troubling the tranquility of the place. Persons having the experience of that, I am sure, will not laugh at the idea contained in the motion. Therefore it is that I submit that this is a matter which people should not laugh over but it is a matter which should be viewed seriously. The Hon'ble Member for Pallipuram was asking the question whether with the payment of a few coins the din will be converted into music and all that. As put forward by the Hon'ble Member for Vytila, it is not a question of earning money. When it is stated that such advertisements will be taxed, there is every possibility of such nuisance being not created. He was on the preventive side of the Municipality. The persons who are responsible must be charged not for that which will come into coffers of the municipality as a whole but as a preventive measure. Therefore it is that I submit that this matter may be very seriously viewed by this House and if possible support the Hon'ble Member who moved this amendment.

മിസ്റ്റർ കെ. അയ്യപ്പൻ (*Ezhuvas South*)— സർ, ഞാൻ ഇതിനെ എതിർക്കണമെന്നോ, അനുകൂലിക്കണമെന്നോ വിചാരിക്കുന്നില്ല. എന്നാൽ ഇതു ന്യൂയിസൻസ് അല്ലെന്നു പറയുന്നതിനോടു ഞാൻ യോജിക്കുന്നില്ല. ഇവരുടെ പ്രസംഗങ്ങളിൽനിന്ന്, കൂട്ടികാം ഓടിക്കുടുന്നു എന്നു പറയുന്നതുകൊണ്ടുതന്നെ ഇതു ന്യൂയിസൻസല്ല, വളരെ താമാശയുള്ളതാണെന്നതോന്നുന്നു. മുനിസിപ്പാലിറ്റികാംക്കു സിനിമാകാര്യത്തിൽ വലിയ ഒരു വരവുണ്ട്. മുനിസിപ്പാലിറ്റിയ്ക്കു ഇതു ശരിക്കു നടത്തുവാൻ അഡ്വർടൈസ്മെൻറു് അത്യാവശ്യമാണ്. അതു് ശരിക്കു നടത്തുവാൻ മുനിസിപ്പാലിറ്റിയും ഗവൺമെൻറും ഉത്സാഹിക്കണം. അഡ്വർടൈസ്മെൻറു് ഇന്നു മാസ്സത്തിൽ കൂടിയേ നടത്തുവാൻ പാടുള്ളൂ എന്നു് വയ്ക്കണം. ഇതു് കുറെ പേർക്കു മാത്രമെ ന്യൂയിസൻസായിട്ടു തോന്നുന്നുള്ളൂ. ഇതിനെല്ലാം ലണ്ടനിലെ എക് സാമ്പിളം ഒന്നും എടുക്കേണ്ട കാര്യമില്ല.

മിസ്റ്റർ എ. നാരായണമേനോൻ (*Vyttila*).— ലണ്ടനിലെ കാര്യമല്ല, മദ്രാസിലെ കാര്യമാണു് ഇവിടെ പറഞ്ഞതു്.

മിസ്റ്റർ കെ. അയ്യപ്പൻ (*Ezhuvas South*).— ഈ അഡ്വർടൈസ്മെൻറു് കൊണ്ടു എറണാകുളത്തു് വല്ല അക്സിഡൻറുമുണ്ടായിട്ടുണ്ടോ?

മിസ്റ്റർ കെ. എസ്സ്. മാണിക്കം (*Irinjalakuda*)— ചിറ്റൂർ റോഡിൽ ഉണ്ടായിട്ടുണ്ടു്.

മിസ്റ്റർ കെ. അയ്യപ്പൻ (*Ezhuvas South*).— ബ്രോഡ്വേയിൽ ഉണ്ടായിട്ടുണ്ടോ?

LIBRARY ARCHIVES Kerala Legislative Assembly

മിസ്റ്റർ കെ. എസ്സ്. മാണിക്കം (*Irinjalakuda*).— ഉണ്ടായിട്ടുണ്ട്.

മിസ്റ്റർ കെ. അയ്യപ്പൻ (*Ezhuvas South*).— അതു് കാണാതെ അപകടത്തിൽപെട്ട പോയതായിരിക്കണം. ഇവിടെ മുനിസിപ്പാലിറിക്കു വരവില്ലെന്നു പറയുന്നു. നാലായിരം ഉറുപ്പിക ഈ വഴിക്കു കിട്ടുവാൻ തരമുണ്ടെങ്കിൽ അതു വെറുതെ വിട്ടുകളയരുതു്. അതുകൊണ്ടു ഇതു തമാശപറഞ്ഞു വെറുതെ തള്ളിക്കളയേണ്ട സംഗതിയല്ല. ഞാൻ ഇതിനെ അനുകൂലിക്കുന്നുമില്ല, പ്രതികൂലിക്കുന്നുമില്ല.

Mr. A. Sivarama Menon (*Mulakunnathukavu*).—Mr. President, Sir, I am afraid we are straying from the real issue before us. We are now considering whether we should encourage advertisements or discourage them or take measures to prevent advertisements becoming more popular. The scope of the amendment, does not warrant a general discussion on the advantages and disadvantages of advertising. The Hon'ble Member for Vyttila has brought forward a simple amendment that among the heads of revenue contemplated by the proposed legislation a new heading by way of tax on advertisements be added. His object, I take it, is to add to the financial resources of the Corporation. One Hon'ble Member suggested that it is a preventive measure. I can never understand the object of this amendment to be that. As a matter of fact the Hon'ble Member for Vyttila himself offers it as a sort of solatium to the Hon'ble Member for Ernakulam South who is stoutly opposed to the doing away with the companies tax. Therefore considering the amendment we have to view it but as a simple head of taxation. Is it desirable that we should give permission to the various Municipalities to introduce this new head of revenue? I do think, Sir, that we should immediately make up our minds on this question and then say yes or no. I am entirely opposed to this amendment. For one thing it is not an item which will bring in any considerable cash to the Municipal coffers. On the other hand it will adversely affect a sphere of activity which has not developed in our midst to any appreciable degree. But it ought not to be forgotten that Advertisement is an art. It is followed as a profession in several places. A regular course has to be gone through before one can become an expert in the art. There is no reason whatever to pooh-pooh the idea of being a professional advertiser. We should on the other hand encourage the profession of advertisement in some of our places. As I said already this tax is not likely to bring in any appreciable amount to the coffers of the Municipality. I am against the amendment

LIBRARY ARCHIVES Kerala Legislative Assembly

also on the ground that it may interfere with the growth and development of an enterprise which deserves to be encouraged. For these reasons I oppose the amendment.

Mr. V. K. Krishnankutty *(Anthikad).*—The supporters of this amendment and those who doubted whether they have to oppose it all were arraigning their arguments on the ground that advertisements are a nuisance in some of our towns, and many of them were citing examples also. If that is their main ground and if that is the sole ground on which this amendment is to be supported, here is a section which provides for stopping such noisy advertisements which become a nuisance to the persons who are engaged in their occupations. Here is section 238 (1) which has been newly incorporated in the Municipal law.

"No person shall, for purposes of advertisement of any kind, create or cause to be created any noise by musical instruments or otherwise in or on any public street and other public places".

Not satisfied with that, here is a second subsection:—

"No person shall play or allow to be played gramaphones or such like other musical instruments in hotels, restaurants, coffee or tea shops after 10 p. m. and before 5 a. m.".

This is a sufficient safeguard against advertisements growing into nuisance. As regards classifying this advertisement under taxable professions it is a different matter and the amount derived from such taxes will be so poor that the game is not worth the candle. So, I strongly oppose the amendment.

Mr. K. S. Manickam *(Irinjalakuda).*—I rise to support this amendment, not because I consider that the imposition of this tax will add on to the coffers of the Municipality but on the ground that this may prove to be a means of regulating the mode of advertisement with which we come across today. Though sweet may be the uses of advertisement, its inflictions on the public at large have become so much of a nuisance that today man is prepared to go without the direction of an advertisement than go with it. According to me, if the purpose of the imposition of this taxation will empower the Municipality to issue a license to these people and the license may cover the mode in which they may resort to the advertisement then much of the advertisements which are reasons for nuisance and which disturb the peace of the ordinary citizens may be put a stop to. On that ground if along with this imposition of taxa-

LIBRARY ARCHIVES Kerala Legislative Assembly

tion for advertisement there is also a license going to be issued by the Municipality, I do not oppose this amendment. Because as was repeatedly suggested on the floor of this House various modes of advertisement that we come across now are all modes which cause danger to school-going children and to old and infirm people who go to temples and other places during evenings and mornings. Advertisements are resorted to at about 10-30 in the night with drumming and all that, when you are suddenly aroused from your sleep and disturbed from the work you are doing, and to enjoy family life after the day's hard work, has become an impossiblity now-a-days. If along with this taxation the people who resort to such sorts of advertisement are scared away then, according to me, the purpose of the amendment will be achieved, because we see that such unusual advertisements are resorted to only by people who carry on a trade and which does not give them profit enough to meet even the license fee that might be imposed by this amendment. Cheap cinemas, and other things resort to this most unusual type of advertisement. The more noisier the advertisement is, the less the money the particular trade contains. That is the index. If along with the imposition of this taxation, the advertisers who cause harm are scared away, then according to me, this amendment would have achieved its object. Besides, whether this amendment is going to be accepted or not, I take this opportunity to bring home to the Municipality the urgent necessity of reserving certain spaces for these advertisements, so that the walls of the private Government buildings and other places which have to be kept neat will not be damaged by pasting on those walls and other appurtenances the posters and placards containing advertisements which some times contain the most obscene things. With this suggestion to the Municipality and also on the ground that if the purpose of the amendment will be to regulate the mode of advertisement resorted to by the issuing of licenses along with the levy of this taxation, I support this amendment.

Mr. T. S. Balarama Ayyar (*Trichur North*).—I oppose this amendment. I endorse every word of what the Hon'ble Member for Mulakunnathukavu said. We are sadly lacking in advertising campaigns. Everything should be done to foster the advertising mentality and nothing should be done to retard it. Advertisement, generally speaking, is in its infant stage now. No attempt should be made to raise any revenue from an infant. No doubt, there are two ways of doing it. There is the Rakshasa way and there is the human way of doing it. The

LIBRARY ARCHIVES Kerala Legislative Assembly

Rakshasa way of doing it has to be stopped and Section 238 does it. The human way of doing it should be encouraged and fostered. I therefore oppose this amendment.

Mr. President.—I think we had sufficient discussion on this. So far as the Government are concerned, there is no objection to enable the Municipality to collect one more tax.

Amendment was put and lost.

Section 67 as amended was put and carried.

Sections 68 to 70 were put and carried.

The House rose for lunch at 1 p. m. and re-assembled at 2-15 p. m. with the Deputy President (M. R. Ry., A. Sankara Menon Avl., B. A. & B. L.) in the Chair.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, I beg to move the following amendment:—

Delete clause (d) of section 71 and substitute for it the following:—

"(d) public land and buildings or lands belonging to Government or Municipal Council".

The Bill as reported by the Select Committee deals with only "buildings belonging to Government or Municipal Council". It is obvious that there may be considerable extent of public land which would produce no revenue, as these lands are not serving any public purpose. Under the existing law, and from time immemorial, the right of taxing such lands belonged to the Municipalities. If it is a question of comparing it with the provisions of the District Municipalities Act, we have to remember that our Mnnicipalities time and again have received far more extensive help from the Government in various respects. Several institutions which are for instance maintained by the District Municipalities in British India are here maintained by Government and it will be hardly graceful for the Municipalities to insist upon tax upon lands which are either unoccupied or used by the Government, much of the lands being used for public conveniences, such as parks, play-grounds and so on. So that I am sure Hon'ble Members will not grudge the amendment. This little indulgence is what is obtained in the District Municipalities Act.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Shabdai S. Koder *(Jews).*—In the last budget session the Hon'ble the Diwan President remarked that in future Municipalities should bear the major portion of expenditure in matters connected with Town Improvement. If that is going to be the future policy of our Government I think it is only fair that lands or buildings, at least residential buildings, belonging to Government should not be allowed to escape paying Municipal tax. On this ground I oppose this amendment.

Mr. M. Sivarama Menon *(Ernakulam South)*—I support the amendment. The Select Committee had occasion to consider this question in great detail and the members of the Select Committee were almost unanimous in thinking that all Government buildings and lands within the municipal area should be subject to taxation. But on further discussion we found that we were really going on a wrong track. Because in British India you will find that there are Municipalities which are in charge of education. A portion of the funds for the hospitals are met out of the Municipal funds. But in this State these two major activities, Education as well as medical help are being rendered by Government, because the financial resources of the several Municipalities of the State have been found to be quite inadequate even to solve the fringe of the problem. We shall begin to tax Government buildings and lands when we are in a position to take over the Departments of Education and Medicine on the shoulders of the Municipalities as in British India. After all if we take into consideration residential quarters in Ernakulam there will be only two or three. When once we begin to tax Government buildings, the angle of vision which the Government will take will also change. They will ask us to be in charge of primary education. When we calculate the amounts that we have to spend to work out that subject we find as a matter of actual financial strain that we could not shoulder that responsibility. Government had no other go. So that we cannot take an unreasonable view of the situation trying to have an undue advantage of our position as non-officials and then urge a proposition which in the eyes of others may appear to be unreasonable. That is the reason why the Select Committee thought it better not to legislate. In that view of the matter I support the amendment. If this amendment is carried amendments numbers 48 and 49 will be out of place. So they may be moved even now.

Amendment was put and carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—I beg to move the following amendment:—

Insert the following as clause (e) of section 71 and reletter the existing clause (e) as clause (f).

"*(e) Palaces owned by members of the Cochin ruling family*".

Hon'ble Members are aware that there is a provision exempting carriages and animals used by members of the Royal family from taxation. An enactment has recently been passed, viz., Act III of 1111. Hon'ble Members must have noted that a series of amendments were sent up by me with the object of deleting the words. "Used for military purposes and in connection with Government vehicles." That is to say while the Select Committee recommends that even Government vehicles and animals used for military purposes should not be exempted from taxation, Government thought that was intruding upon the rights enjoyed by the military so far and with the object of restoring those rights those amendments were submitted. Subsequently, as a result of discussion in this House and after ascertaining public opinion Government have withdrawn those amendments. Hon'ble Members will notice that the Government have been trying their level best to ascertain public opinion and to accommodate that opinion as much as they could. Here is a matter which Hon'ble Members would realise is a thing which is more or less of a sentimental nature. Government desire that the right or privilege that has been enjoyed and is being enjoyed, should be enjoyed by members of our ruling family.

Dr. A. R. Menon *(Pallippuram)*.—Is that right enjoyed by them now?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—Yes.

Dr. A. R. Menon *(Pallippuram)*.—Since when?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—Since 1111.

Dr. A. R. Menon *(Pallippuram)*.—Before that?

Mr. Thomas Manjuran *(Government Advocate and Law Officer.)*—It was not so before.

It is a very delicate subject for me to explain. You will bear with me and understand exactly what I mean and sympa-

LIBRARY ARCHIVES Kerala Legislative Assembly

thetically too. While the Government is ready and willing even to have their own conveyances taxed unless they are actually being used for military purposes which shows that they want to respect public opinion, Hon'ble Members will kindly remember that there are limits to which Government can, consistent with considerations of sentiment or sentimentality, be insisted upon. We are the proud owners of a big royal family. We should consider this as a privilege. If they want to use conveyances I am sure, Hon'ble Members will allow them the privilege of running them without taxation. They are placed more or less in a particular position. If as a matter of fact we are accustomed to things going on in other places we would perhaps never have been confronted with the demand, nor should a request have come like that. The special rights that we have granted or recognised in royalty are so very limited. The very limited nature of the rights makes this special request probably strange or curious. We cannot forget that those rights are so very few indeed. I do not want to explain the subject more. I shall leave the matter to the Hon'ble Members to understand it. That being so, after all what is the great thing that is involved in this. I think that the practical bearing of this provision relates only to the Ernakulam Town. There are a few in the Trichur Town also.

Dr. A. R. Menon *(Pallippuram)*.—A number of cars are going on with the word 'Palace' attached to them.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—For the simple reason that there are a number of palaces. Whatever the Hon'ble Member for Pallippuram may think about the cars, such an abuse is impossible in the case of Palaces. That is an obvious safeguard. I would submit that the matter may be unanimously and handsomely passed even without a division. It is a matter on which we could easily exaggerate. After all the Chairman of the Ernakulam Municipality will tell you that the amount that he can collect is only about Rs. 100 or Rs. 200. There are certain unwritten obligations. Let us not go on calculating these things. Without saying much more, I would request Hon'ble Members to be kind enough to pass this.

Mr. C. R. Iyyunni *(Trichur South)*.—On a point of information. Suppose a member of the Royal Family purchases a building in Ernakulam and lets it on hire. Will that be considered as a palace?

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—It will be a building rented by the Royal Family. It must be first a Palace and then owned by a Royal Family.

Mr. C. R. Iyyunni *(Trichur South)*.—Are there Palaces which are not owned by the members of the Royal Family?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—Yes. There are other Palaces, for example, Palaces of the Archbishop of Ernakulam and Varapuzha.

Mr. C. R. Iyyunni *(Trichur South)*.—A Palace was occupied by a member of the Royal family at one time. Subsequently it was let out for hire. Will it still continue to be a Palace?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—If the Hon'ble Members consider that any clarity is necessary, they are welcome to do it.

Mr. A. Sivarama Menon *(Mulakunnathukavu)*.—May I suggest that these words be inserted "*Palaces owned and occupied or otherwise personally used*". The first condition is that it must be owned by Royalty and then occupied or otherwise used.

Mr. V. K. Krishnankutty *(Anthikad)*.—On a point of order, the amendment cannot be raised, because it raises a question in which we have to discuss about Palaces. The amendment is out of order.

Deputy President.—I don't think it is so.

* **Mr. M. Sivarama Menon** *(Ernakulam South)*.—Sir, it is part of my object to oppose this amendment. But I have to make certain observations with regard to this amendment, which has been tabled by Government. Now, Municipalities are institutions to which certain powers possessed by Government are delegated under certain specified conditions. Before Government asks the Municipalities to exempt the Palaces owned by the members of the Royal family, the question really arises whether the Government have exempted the lands in which the Palaces are built from land revenue. Is it only with regard to Municipal revenue that they are to be exempted or is it a case where they should be exempted from land tax also? Now, therefore, the position is this. The Members of the Royal family are not exempted from fees in the Registry Offices.

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

They are not getting all the perquisites that they ought to get. But before the Government exempts the Members of the Royal family from land tax in the case of residential quarters, will it be proper to ask the Municipality alone to exempt the Palaces from payment of property tax. It appears to be rather unjust. The Government is holding tight its hands and asking the Municipality—a subordinate—to give up what it can get. I know as a matter of fact that that the Members of the Royal family who reside in Palaces, if only they are approached, they would voluntarily pay the tax. They are such enlightened Princes. But I ask this question just to apprise Government of the fact that this is not the method that they ought to adopt. The lands in which these Palaces are built should also be exempted from Land Revenue. That has not been done. Because it is a matter affecting Government revenue that question has not been considered. It is not a matter of sentiment. So that upon the ground of sentiment this cannot be. In such situations as this, it is for the Government to step in and get the right thing done. For as a matter of fact when Act III of 1111 was passed all the Palaces were exempted from property tax. The question arose when I sent a Bill to the Palace charging rupee one per one thousand gallons of water supplied and that amount the Palace had to pay, and it was far in excess of any house tax the Palaces would have to pay. But of course, Government had to interfere and settle that matter. Before you ask any subordinate institution to accede to a particular grant or a request or a concession Government itself must have done it before. You ask another body to do that. That has not been done. I wish to bring to the notice of the Hon'ble Members to consider the question as to whether Members of the Royal family really even now insist upon this privilege. That is one thing. Because there will be a change in the whole situation. The Members of the Royal family may change their view. After all, we find a few palaces only at Ernakulam and Trichur. If they themselves voluntarily relinquish this privilege why should the Municipality be denied it? Secondly, it is only graceful that if this is enacted into law the land in which the Palaces are built should also be exempted from land revenue. In any case I am prepared to support the amendment with the modification proposed by the Hon'ble Member for Mulakunnathukavu. What I submit is that there are several things which a person feels and there are certain others which a person may not feel. It is for the Government to see that no such occasion or situation is created. My only purpose is to show that if this is to be consistent with the policy

LIBRARY ARCHIVES Kerala Legislative Assembly

of the Government they should give the privilege of having the lands in which the Palaces are built exempted from land revenue.

* **Dr. A. R. Menon** *(Pallippuram).*—I rise to oppose this amendment. In doing so, I shall bear in mind the caution of the advice uttered by the Law Member. 'Handsome is what handsome does." Let it be clearly understood that I am second to none in my feelings of respect and admiration to the Members of the Royal family. A man of my temperament who never spares his tongue never had to say one harsh word or one harsh expression in this House against the Members of the Royal family. Therefore let it not be misunderstood that in the position I am taking to-day on principles of equity, on principles of justice, on principles of sound Municipal administration, there is anything behind in this attack. There is not even the slightest suspicion of disloyalty. Let your mind be disabused forthwith. In making this provision what is the position here? Apart from the fact that the Government did not show their sense of sensibility to the Princes by relieving them from the land tax the Government comes forward and says "Show your loyalty, show your sense of duty, by withdrawing this tax in regard to the houses or palaces occupied by the Princes." I am very sorry that the Government is not ashamed to come forward and ask us to do a thing which they had not the decency to do themselves. I can quite understand after having done themselves on their side if they come and ask us to do this thing.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—May I ask the Hon'ble Member if he really has an idea of what the remission of land tax on lands owned by the members of the royal family will be?

Dr. A. R. Menon *(Pallippuram).*—Let it be one pie.

Deputy President.—It is not a matter which should be discussed at any great length.

Dr. A. R. Menon *(Pallippuram).*—Now, Sir, what is the proposition? The proposition is that all the palaces owned and occupied by the Members of the Royal family should be exempt from property tax. Now what is this house tax or what is the object of this house tax? The object of collecting house tax is to discharge certain obligations on the part of the Municipality

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

for the convenience, comfort and the sanitation of the occupiers of this house. When a Municipality collects 4 annas and 6 annas from a rickshawvala what right has this House to say "you must exempt house tax?" I maintain, Sir, that to demand this tax does not mean disloyalty to the Royal House. It does not show want of taste on the part of the person who demands this tax irrespective of any other consideration whatsoever. What is a sauce for the gander is sauce for the goose. We Municipalities do not let off the poor rickshawvala. We demand one rupee from them every half year.

Now you say it is a matter of decency, it is a matter of royalty and it is a matter of loyalty. Does loyalty consist in this? I can understand the Hon'ble Member getting up and saying it is outrageous. When you demand one rupee from a rickshawvala I can understand that sentiment. I have never heard the Hon'ble Member saying a single word about that.

Now, Sir, apart from this question, I have explained that it is for their own comfort and convenience. There is an easy way of getting over this difficulty. There are certain allowances given to the Princes. Why not give them Rs. 25 more from Government exchequer and not from the money of the Municipality to respect the sense and sensibility? Pay down 25 or 30 rupees, whatever be the amount that ought to be given to the Municipality. Let Government give a cheque to the Municipality. That is the easiest way of getting over the difficulty. Everybody is satisfied. We are satisfied, the Municipality is satisfied and you are satisfied because you are respecting the sense and sensibility. No one is going to cry over Rs. 3000 because we have no control over the exchequer. You can spend as you please. It is a sound principle. It is against fairness that this exemption should be granted. I quite agree that there should not be any imposition of tax upon them. Government may easily hand over the amount to the Municipality and let them bear this burden, not the poor Municipality. Some of these Municipalities are even now labouring under great financial difficulties. For these reasons, I think I am not justified in supporting this amendment. Therefore as a sense of duty against expressing my absolute loyalty, I am constrained to oppose the amendment. The Princes do not require this pittance. There are many Princes who, by their education, by their character and by their enlightenment, do not want this appendage to raise them to the level of a Prince. I am not saying this is unnecessary. The Princes are the most enlightened and they do not want any additional extraneous support to raise them to

LIBRARY ARCHIVES Kerala Legislative Assembly

a level higher than you and I. For these reasons—that question does not arise—I think it is the duty of the House to insist upon this sound principle and compel the Government to pay the amount to the Municipality if they think that their sense of loyalty and their sense of fairness with regard to the Princes demand that the Municipality should not collect the amount. I hope Government will find its way to accept this suggestion and get over all the difficulty.

മിസ്റ്റർ കെ. അയ്യപ്പൻ *(Ezhuvas South)*.— സർ, എറണാകുളം മുനിസിപ്പൽചെയർമാൻ അവർകളും തൃശ്ശൂർ എക്സ് ചെയർമാൻ അവർകളും പറഞ്ഞ അഭിപ്രായത്തോടുകൂടി ഞാൻ യോജിക്കുന്നില്ല. അവർ ഈ ഭേഗതിയെ എതിർക്കുകയല്ല ചെയ്തത്. ഇതുമാത്രം പോരാ ലാൻറ് ടാക്സുംകൂടി ഒഴിവാക്കണമെന്നാണു പറയുന്നത്. ഈ ഭേഗതി പാസാക്കുകയാണെങ്കിൽ അതു മുനിസിപ്പാലിറ്റിയുടെ റവന്യൂവിനെ ബാധിക്കാതിരിക്കയില്ല. മാത്രമല്ല ഇവിടെ പാലസ്സുകൾ വളരെ അധികമാകുകയും അവയെല്ലാം ആക്കപ്പൈഡും ഓൺഡും ആയിരിക്കുകയുംചെയ്യും. ഇതു വേണമെന്ന് പ്രിൻസസ്സ് ആരും ആവശ്യപ്പെട്ടുന്നില്ല. പിന്നെ എന്തിനാണ് ഇതിൽ ഗവമ്മെൻറ് പ്രവേശിക്കുന്നത്?

മിസ്റ്റർ പി. കുമാരനെഴുത്തച്ഛൻ *(Wadakkancheri)*.— സെൻറിമെൻറ്.

മിസ്റ്റർ കെ. അയ്യപ്പൻ *(Ezhuvas South)*.— സെൻറിമെൻറൊന്നും ഇല്ല, സെൻറിമെൻറുണ്ടെന്നു പറയുന്നതുതന്നെ അബദ്ധമാണ്. പൊതുക്കായ്ങ്ങളെ സംബന്ധിച്ചു ചെയ്യുന്ന സംഗതികളിൽ സെൻറിമെൻറൊന്നും നോക്കീട്ടു കാര്യമില്ല. അങ്ങിനെ ഗവമ്മെൻറിനു ഇതു ചെയ്യണമെന്നുണ്ടെങ്കിൽ ചെയ്തുകൊള്ളണം. ഇവിടെ കൊണ്ടുവന്നാൽ ഞങ്ങൾക്കു പറയുവാനുള്ളതു പറയും. ഞങ്ങൾക്കു സെൻറിമെൻറിനേക്കുറിച്ചൊന്നും നോട്ടമില്ല. ന്യായവും നീതിയും പറയുവാൻ ബാദ്ധ്യസ്ഥരാണു ഞങ്ങൾ. ഗവമ്മെൻറിന് ഇതു് ആവശ്യമുണ്ടെങ്കിൽ ചെയ്യുവാൻ പലേ മാർഗ്ഗങ്ങളും ഉണ്ട്. ഈ വക സംഗതികളൊന്നും ഇവിടെ കൊണ്ടുവരരുതു്, കൊണ്ടുവന്നാൽ ഈ നിയമസഭയ്ക്കു ഗവമ്മെൻറിനോടു ഉത്തരവാദിത്വമുണ്ടെങ്കിൽ നിശ്ചയമായും ഇതിനെ എതിർത്തു തോൽപ്പിക്കയും വേണം. രാജാക്കന്മാരെ രക്ഷിക്കണമെന്നുണ്ടെങ്കിൽ അതിനുള്ള മാർഗ്ഗം വേറെയുണ്ട്. ആ വഴിക്കു രക്ഷിച്ചുകൊള്ളട്ടെ. അതു ചെയ്യാതെ വലിയകുരങ്ങു് ചെറിയ കുരങ്ങിനെക്കൊണ്ടു ചക്കക്കുരു മേടിക്കുന്ന സംപ്രദായം കൊള്ളരുതു്. ഇതു് ഞാൻ വലിയൊരു പ്രിൻസിപ്പിൾ വച്ചുകൊണ്ടാണു പറയുന്നതു്. കൊച്ചിരാജ്യത്തിലെ പൌരപ്രതിനിധികൾ ഗവമ്മെൻറു് സൂത്രത്തിൽ കൊണ്ടുവരുന്ന ഈ ഭേഗതിയെ തോൽപ്പിക്കുന്നില്ലെങ്കിൽ അവർ അവരുടെ നിയോജകമണ്ഡല

LIBRARY ARCHIVES Kerala Legislative Assembly

തോടുള്ള കടമ ശരിയായി നിവ്വഹിക്കുന്നില്ലെന്നവരും. അതുകൊണ്ട് ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Mr. President, Sir, without speaking much on the subject and without saying whether I oppose or support, I would respectfully request the Government to withdraw this amendment.

മിസ്റ്റർ ഏ. നാരായണമേനോൻ *(Vyttila.)*— ഞാൻ ഇവിടെ വലിയ തത്വമൊന്നും പറയുന്നില്ല. ഒരു കണക്കു പറയുവാനേ വിചാരിക്കുന്നുള്ളൂ. മുനിസിപ്പൽ ബിൽ പാസായാൽ മുവ്വായിരത്തിൽ കുറയാതേയും നാലായിരത്തിൽ കൂടാതേയും ഉള്ള ഒരു കുടുതൽ ചിലവു വരും. അതു മുനിസിപ്പൽ കമ്മീഷണർമാർക്കു ശമ്പളം കൊടുക്കുവാനാണ്. അതോടുകൂടി കമ്പനി ടാക്സ് പ്രൊഫെഷനൽ ടാക്സാക്കിയാൽ വരാവുന്ന നഷ്ടവുമുണ്ട്. ആകെ ആറായിരം ഉറുപ്പികയാണ് മുനിസിപ്പാലിറ്റിക്കു നഷ്ടം വരാൻപോകുന്നത്. ഹൌസ്ടാക്സിന്റെകൂടെ വാട്ടർടാക്സ് പോയാൽ കഷ്ടമായി. വരുമാനങ്ങൾ ഇങ്ങനെ പോയാൽ പിന്നെ ചിലവുകളെല്ലാം നിവ്വഹിക്കുന്നതിനു വകയില്ലെന്നു വരുന്നതു ഭംഗിയാണ്ടോ എന്നുകൂടി ആലോചിക്കണമെന്നു ഞാൻ അപേക്ഷിച്ചുകൊള്ളുന്നു. സഹായധനം ദീക്ഷിച്ചു് ഗവൺമെൻറിന്റെ അടുക്കൽ വരുമ്പോൾ പടികെട്ടി അടക്കരുതെന്നേ അപേക്ഷയുള്ളൂ.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Mr. President, Sir, the proposition before the House has been supported and also opposed for the reasons stated in the speeches of those Hon'ble Members. I am constrained to oppose this amendment on yet another ground. This section comes under the Chapter on Property Tax. There are two sections previous and this is the 3rd section and that deals with exemptions. Let us look at the class of buildings that are sought to be exempted by this section and see whether the sort of buildings contemplated by the amendment will fall in line with them and therefore deserve exemption. Let us look at this. The first is—(a) places set apart for public worship—one very properly to be exempted—then choultries, buildings used for educational purposes, hostels attached to educational institutions—public buildings and places used for the charitable purpose of sheltering the destitute or animals, libraries and play grounds which are open to the public—there is a very good reason behind the exemption of all these buildings, (b) charitable hospitals and dispensaries. Surely to be exempted, (c) burial and burning grounds (d) buildings belonging to Government or Municipal Councils. These are the sort of buildings sought to be exempted. It is not very difficult to see through the reasons underlying the

LIBRARY ARCHIVES Kerala Legislative Assembly

exemption sought to be made for these buildings. I ask the question whether even on the ground of sentiment which was mentioned by the Hon'ble Member the question of exemption of Palaces owned and occupied by the members of the Royal House will come in. My respectful submission, Sir, is that they do not deserve exemption when we consider the nature of the buildings that are sought to be exempted under the exemption section. Is not the Government by this amendment trying to wound the feelings of the Members of the Royal House themselves? As observed here and as known to all the Hon'ble Members, the Members of our Royal House are extremely cultured men of very great character and generally charitably disposed. The motion before the House relates to an exemption sought in the name of gentlemen of this type. They will, I am afraid, Sir, consider this as an insult. On that ground also this is an amendment which has to be opposed. The Members of the Royal House who will come under this class of exemption will feel insulted. I ask the Government whether they will be a party for giving that insult to the members of the Royal House? Now that the Government have thought it fit to do it, the question arises whether we, the non-officials, should be a party to offering that insult. My considered opinion on the subject is that we should not be a party. So I oppose the motion for exempting Palaces from municipal taxation.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, as I stated at the outset, I am not prepared to argue this matter in cold blood. I leave several things to be imagined rather than stated. But at the same time I must say that we are speaking on tremendous privileges that we are going to offer to the Royal family. We are going away from the reality of the situation, I am afraid. We have to remember that this very large Royal family of ours consisting of 400 members is barely using 7 per cent of our revenues. Now that is a most remarkable and unique fact in the whole length and breadth of India. I can cite you instances of Royal Families consisting of three, four or five members consuming 18 per cent, 20 per cent, 25 per cent and even 30 per cent. Hon'ble Members will however remember this. It is the solemn duty of every country to maintain their Royal family in comfort and Cochin does it to the best of her ability although to a very moderate extent. Now it is the duty of the Government and the Government fulfil that duty by offering convenient palaces for the members of the Royal family, paying them rent where they cannot find buildings and advancing money to build Palaces.

LIBRARY ARCHIVES Kerala Legislative Assembly

Now having exempted Government lands and buildings, this category of institutions—palaces—comes very near to those institutions that are already exempted. This is a matter, Sir, which can be easily exaggerated. It is a matter which I am not prepared to argue in cold blood. The only other argument that needs notice is that if the Government is so anxious about the sentiment of the royalty why they do not collect land tax for all lands owned by royalty. Now when Hon'ble Members are speaking in that strain they seem to forget that Government money is people's money. So you want the money that has to be spent for helping the poor and the destitute, for building roads and for working 101 public utilities of a modern Government, do you want to divert a substantial portion of that amount by remitting the revenue payable on the very vast extent of land owned by royalty in the State? Has any of the Hon'ble Members who so blindly speak on the remission of tax on land any idea of the extent that it involves. If it is a question of remission of land revenue from a particular class or category of land you have to give that remission consistently. Is it not so? If you give remission to all lands owned by royalty I can understand. If you give remission on all lands on what known or imaginable grounds are we to exempt? If it is the question of remission of land revenue I am afraid it will come to several lakhs of rupees because a good portion of the lands of the State happens to be owned by royalty.

Dr. A. R. Menon *(Pallippuram).*—What is a lakh to you is thousands to the Municipality.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I would again request the Hon'ble Members to dispassionately consider the matter and handsomely vote for the resolution.

Amendment was put and carried.

Section 71 as amended was put and carried.

Sections 72, 73 and 74 were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I beg to move *In clause (c) of section 75 (3) insert the words 'succeeding that' between the words 'half year' and 'during'.*

It is only a verbal amendment.

Amendment was put and carried.

Section 75 as amended was put and carried.

Sections 76 to 79 were put and carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. S. Balarama Ayyar *(Trichur North).*—In view of the suggestion that was made by the Chair and accepted by the House I do not want to move the amendment to section 80 that stands in my name.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—That section as it stands will require some little amendment and it may be put in this way. "If with the previous sanction of the Government, the Council by resolution decidés that a company tax shall be levied, etc." Now I have one suggestion to make for the consideration of the Hon'ble Member for Ernakulam. This is not a Government suggestion. Would it not be advisable to include one or two other words also? "If with the previous sanction which the Government may grant subject to such conditions as they deem fit to make that a companies tax shall be levied".

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—That is unnecessary.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Then I move this amendment: *Add the words 'with the previous sanction of the Government' between 'Council' and 'by' at the beginning of Section 80.*

Mr. T. S. Balarama Ayyar *(Trichur North).*—Will it not be better to change the word 'Council' into 'Municipal Council'?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—It is unnecessary.

Amendment was put and carried.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Mr. President, Sir, it has been stated this morning that what the Madras Municipalities Act has provided is not to have an amendmend in a profession tax. Now section 80 has been amended in a particular way that is with the previous sanction of the Government a company may be levied. That is what is proposed by this amendment. We are now on the question of what we are to tax a company, whether on the capital or funds as stated in the section or upon the net income as I wish here in the amendment. My submission is that it will be equitable to tax a company if it is proposed to tax it on its net income and not upon any fund or capital. There is no use of keeping a capital or fund unless it is capable of producing a certain net-income. Another aspect of it is if really a company

LIBRARY ARCHIVES Kerala Legislative Assembly

has got a capital or fund, it will produce a very good net-income. My submission therefore is that *in section 80, the words 'net-income' be substituted for the words 'funds or capital'*. It will be a salutary change to be effected. It will not prejudically affect the income of the municipality. But it will be more graceful and reasonable to substitute the word 'net-income'. I think there is justification if you ask the company to pay the tax on the net-income earned by the company. It is on this ground that I move this amendment. I commend it for favourable consideration by the House.

Mr. A. Eachara Menon *(Chittur Rural)*.—I second it.

Mr. M. Sivarama Menon *(Ernakulam South)*.—I doubt whether this amendment will not vitally affect Schedule I and whether this amendment can be considered and is in order.

Deputy President.—I don't think it is in order, because the schedule has absolutely no reference to the net income. The amendment ought to be to the schedule.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri)*.—There is also an amendment to the schedule given by me. Amendment No. 106. This will be auxiliary to that.

Deputy President.—The tax is with regard to the funds or capital. Section 80 may now be passed. But when we come to schedule I that may be amended.

Amendment was by leave withdrawn.

Section 80 as amended was put and carried.

Mr. T. S. Balarama Ayyar *(Trichur North)*.—To be consistent with section 80, as amended, I move my amendment to section 81:—

Section 81. Substitute the following for sub-section (1):- 'If the Council by resolution determines that a profession tax shall be levied:—

every company which, after the date specified in the notification published under section 68, transacts business in the municipality for not less than 60 days in the aggregate in any half-year; and every person who

(a) exercises a profession, art, or calling or transacts business or holds any appointment, public or private—

LIBRARY ARCHIVES Kerala Legislative Assembly

(i) within the Municipality for not less than 60 days in the aggregate, or

(ii) without the municipality but who resides in the Municipality for not less than 60 days in the aggregate and is in receipt of any pension or income from investment,

shall pay a half yearly tax assessed in accordance with the rates shown in schedule II.'

I also move *that the words 'not made liable to pay companies tax under section 80' be added between 'Company' and 'which' and 'person' and 'who'.*

Mr. M. Sivarama Menon *(Ernakulam South).*—I second this.

Amendment was put and carried.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I move the following amendment:

In section 81 substitute the following for sub-section (3): "If a company or person proves that it or he has paid the sum due on account of the profession tax levied under this Act, for the same half year to any Municipal council in Cochin such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other municipal council more than the difference between such sum and the amount to which it or he is otherwise liable for the profession tax for the half year under this Act."

Mr. M. Sivarama Menon *(Ernakulam South).*—I second it.

Amendment was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—*In section 81 (3) line 1 after the words 'if a' add 'company or'. In line 2 omit the words 'profession tax' and substitute for them 'tax on profession and other sources of income' and in line 3 after the word 'such' insert the word 'company or'.*

This is only a consequential amendment to make the section in order.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I second it.

Amendment was put and carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. Sivarama Menon *(Ernakulam South).—In secton 81 (3) line 6 after the word 'which' insert 'it or' and omit the words 'profession tax' and insert instead 'tax on profession and other sources of income'*

This is also a consequential amendmnet.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I second it.

Amendment was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).—In section 81 (4) omit the words 'profession tax' and substitute for then 'tax on profession and other sources of income.'*

This is also the same as before.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I second it.

Amendment was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).—In the marginal note to Section 81 'tax on prefession' may be omitted and 'tax on profession and other sources of income' may be inserted.*

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I second it. It is consequential.

Amendment was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I shall move one or two small amendments with regard to clause (4).

The words 'in Cochin' may be inserted after 'Municipality.'

Mr. M. Sivarama Menon *(Ernakulam South).*—In fact when the select committee considered the bill it was pointed out that this amendment was not necessary in view of a decisino of the Chief Court. If you introduce 'in Cochin' that will only create some doubt. This bill will not affect other muncipalities in the world. This Bill is intended for Cochin municipalities, only and hence the words 'in Cochin' may be omitted from the amendment of Mr. Balarama Ayyar.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).—The words 'in Cochin' may be omitted from Mr. Balarama Ayyar's amendment.* That is enough.

LIBRARY ARCHIVES Kerala Legislative Assembly

Deputy President.—That may be done.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—*In the same subsection 'or transacts' may be inserted between 'calling' and 'or'.*

Mr. M. Sivarama Menon *(Ernakulam South).*—I second it.

Amendments were put and carried.

Section 81 as amended was put and carried.

Section 82 was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—*In section 83 (1) omit the words 'profession tax' and substitute for then the words 'tax on profession and other sources of income' in lines 6 and 7.*

This is only a consequential amendment.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I second it.

Amendment was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—*In section 83 (2) omit the words 'profession tax' and substitute 'tax on profession and other sources of income'.*

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*—I second it.

Amendment was put and carried.

Section 83 as amended was put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—*In section 84 omit 'profession tax' and substitute 'tax on profession and other sources of income'.*

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*—I second it.

Amendment was put and carried.

Section 84 as amended was put and carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. Sivarama Menon *(Ernakulam South)*—*In section 85 omit 'profession tax' and substitute 'tax on profession and other sources of income'.*

This is also a consequential amendment.

Mr. T. S. Balarama Ayyar *(Trichur North).*—I second it.

Amendment was put and carried.

Section 85 as amended was put and carried.

Sections 86 and 87 were put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—I move that *in section 88 for the word 'seven' in the ninth line insert the word 'six'.* The section as it stands says that 'if the council by a resolution decides that a tax on carriages and animals shall be levied the executive authority shall levey the said tax .... This section shall not apply to motor vehicles ..... excepting motor cars seating not more than seven persons'. Now my amendment is that instead of seven six may be inserted including the driver. Otherwise he can have a car with three persons in the back seat and two beside himself. That will be more consistent.

Mr. V. K. Aravindaksha Menon *(Chief Engineer).*—There are seven seater cars.

Mr. M. Sivarama Menon *(Ernakulam South)*—In that case I do not want to move my amendment.

Amendment was by leave withdrawn.

Sections 88 and 89 were put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—*Insert the following as clause (g) after clause (f) of section 90:- '(g) conveyances of all sorts including animals, if any, used to drag them maintained by members of the Cochin Ruling Family for their personal use.'*

This is a part of Act III of 1103. I hope this amendment ....

Mr. M. Sivarama Menon *(Ernakulam South).*—I feel a doubt whether Government will be serious in moving this amendment. However I pray that this amendment may be put off till the Hon'ble President takes the Chair.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I shall explain the Government position.

Deputy President.—This may be postponed till the Diwan comes.

Amendment was kept in abeyance.

Sections 91 to 96 were put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—My amendment is to this effect:—

Insert the heading after section 96 as 'taxes leviable under sections 88 and 95' and add as section 96A the following:- "Where the Cochin Hackney Carriage Act of 1098 is in force in any area of a municipality the person appointed to perform the functions of the Commissioner under the said Act in respect of such area shall before registering any hackney carriage thereunder satisfy himself that the Municipal council has received payment of tax, if any, due under Section 88 or Section 95, as the case may be, on account of the last preceding half year and the current half year.'

Now this section happened to be omitted from this bill. This appears in the Madras District Municipalities Act. As a result of the working of the two departments such a section appears to be necessary.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I do not want to oppose that amendment.

Amendment was put and carried

thus carrying Section 96 A.

Section 97 was put and carried.

Mr. V. K. Krishnankutty *(Anthikad).*—Sir, I rise to move that *clause (e) of Section 98 may be omitted.* This sub-section gives exemption from tolls to vehicles and animals carrying municipal servants and police officers on duty. It will be very difficult to define the time and place when and where they are on duty. When they say that they are on duty we have to take them for their word. Whenever a police officer is seen in a vehicle or bus we cannot claim tolls at all. This exemption is not existing in the present Act, nor does it exist in the Madras District Municipalities Act. I request that the amendment may be accepted.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. S. Balarama Ayyar (*Trichur North*).—I support the amendment.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I oppose the amendment. I have been waiting to say what attitude the Government....

Dr. A. R. Menon (*Pallippuram*).—Yes, we will hear.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I oppose the amendment.

* **Dr. A. R. Menon** (*Pallippuram*).— Sir, the section says 'carrying any municipal or police officer on duty'. Who is to decide whether the officer is on duty or not? The effect of this clause would be that all police officers are permanently exempted. They can always say that they are on duty. I do not know when they are not on duty. They are on duty both day in and day out. When they are on duty they are exempted. They are on always through their official career. Now, Sir, why are the police alone exempted ?

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Because they have to go about on more urgent objects.

Dr. A. R. Menon (*Pallippuram*).—Emergency has nothing to prevent the payment of tolls. There was an amendment proposed some years ago that the municipal officers should be exempted from tolls. We opposed that. If the police have to be exempted then exemption has to be given to the officers of the Medical department. They have something to do with the Municipal department. The Public Works Department, the Public Health Department have also got connections with this department. Why then the police officers aloneare exempted. The municipal officers should be made to pay the tolls, the municipal chairmen should pay it. I have paid it, I had the decency to force it upon the toll contractor. Was not this amendment passed by this council? I said that we opposed it when it was brought before the municipality. This was an amendment of this very council. There must be a real council within a municipality, a council with some reality. We don't want exemption being granted to every officer of the Government. Everybody must pay if they want to enjoy the municipal roads. They have to be kept under good conditions by the municipalities concerned. They can't be kept under good conditions unless the municipalities get their tolls. There is no sense in saying that exemption

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

should be granted to these officers. If there is any sense then that exemption should be extended to officers of other departments like the P. W. D., Medical, Public Health, etc. For these reasons I am supporting this amendment.

* **Mr. C. R. Iyyunni** *(Trichur South).*— There is one point. With regard to the number of buses that enter the Trichur tolls, if there is a constable that bus owner need not pay the Rs. 2 for that bus. The Trichur municipality has its main stay on the tolls which itself comes to Rs. 72,000. If it is said that a vehicle is intended merely for the purpose of a police officer then I can understand that. Now the Government may hold that their position is correct. But when it comes to a court of Law there are other people than the Government Advocate or the Secretary to Government to sit in judgment. I am here only pointing out one difficulty because every bus that enters the town of Trichur will have a constable. If such buses are to be exempted from tolls that will come to a huge amount so far as the Trichur municipality is concerned. The Ernakulam municipality will also lose a large amount in this connection. Therefore I support the amendment.

(At this stage the Hon'ble the President occupied the Chair.)

Mr. C. R. Iyyunni *(Trichur South).*—Sir, now we are dealing with section 98 (e). It says that no toll can be levied on a vehicle carrying a municipal servant or police officer on duty. First of all it is very difficult for the municipality to ascertain whether a police officer or municipal officer is on duty or not. In the second place in every bus you can find a police officer or municipal servant sitting and the mere fact that he is travelling in that bus may entitle the owner of the bus to evade payment of the toll. With regard to the Thrichur municipality I can say that its main stay is from the tolls and other dues on the buses that come into the town. It is also not difficult to find a constable in every bus that enters the town. Under such circumstances the bus owner need not pay any toll at all for a bus that is entering the town. Therefore my suggestion is that this clause may be omitted.

Mr. M. V. Cherian *(Mattancheri South).*—On a point of information, may I know who are the municipal officers now excluded from payment of tolls? Are scavengers, sweepers, etc. excluded?

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. Sivarama Menon *(Ernakulam South)*.—That the Government will certify. The municipal maistries and sanitary inspectors are now enjoying the privilege. The word municipal officer is differently interpreted. Even the chairman is not sometimes considered as a servant of the municipality.

Mr. President.—In actual practice if a constable sits in a bus it has to pay tolls. Is it not?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.— It actually pays. Sir, in the existing Act the last clause does not exist. But the select committee thougt that buses carrying municipal or police officers may also be excluded. If that is so a fear was expressed that those buses will not pay the tolls.

Dr. A. R. Menon *(Pallippuram)*.—There is also the other fear. It is very difficult to say whether a police officer is on duty or not. My view is that he is always on duty both day in and day out till he retires.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—If the Municipal councils do not wish such concessions to be granted to their officers Government have no objection.

Amendment was put and carried.

Section 98 as amended was put and carried.

Mr. President.—Now we will take the amendment to section 90 which has been postponed.

(*Insert the following as clause (g) after clause (f) of section 90:—*
'(g) conveyances of all sorts including animals, if any, used to drag them, maintained by the members of the Cochin Ruling family for their personal use.')

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—Sir, there are two amendments Nos. 50 and 77 which are practically interrelated and emerge out of the same Act. Of these, amendment No. 50 has already been passed by this House. The other portion of the Act is contained in this amendment. The section regarding property tax was carried by this House. It was stated here that Government vehicles within the municipalities were going to be taxed. If that is so Government are not exempted from the payment of license fees. But Government consider that a privilege should be given to the members of the Cochin Ruling Family. Government have already given exemption for the Members of the Cochin Ruling Family regarding payment of tolls.

LIBRARY ARCHIVES Kerala Legislative Assembly

Dr. A. R. Menon *(Pallippuram).*—License fees and tolls are different. Nobody should stop the vehicles of the Thampurans when they enter the Municipal limits on considerations of prestige. It is not necessary that they should be exempted from the payment of this license fee also.

Mr. President.—I think there was an order on this amendment.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I was directed to press the other amendments. With regard to the amendment now on hand I think that the matter was left for further consideration. That is what I remember.

Mr. President.—All the Government carriages should be made liable to the payment of license fees except that of His Highness the Maharaja. If this is granted by Government the position would be that so far as vehicles stationed within the Municipal limits and owned by the residents excepting the vehicle used by His Highness the Maharaja and those used for military purposes, even that of the Diwan, will be liable to licence fee. But they will be exempt from the payment of tolls.

Dr. A. R. Menon *(Pallippuram).*—When once they are exempted from the payment of tolls why can't they be exempted from the payment of this license fee also? If you exempt them from the license fee there is no necessity to exempt them from the tolls.

Mr. President.—If the House is prepared to give them both the exemptions the Government will have no objection.

Dr. A. R. Menon *(Pallippuram).*—My position is that tolls should be collected from them. If they have taken a licence why should they pay toll. Now they are exempted from the tolls.

Mr. President.—Suppose a Thampuran is residing in Ernakulam. He will have to take out a licence for his car from the Ernakulam Municipality. Automatically he will not have to pay toll to the Ernakulam Municipality. Even if he goes to Trichur there also he may not have to pay toll.

* **Dr. A. R. Menon** *(Pallippuram).*—What I would bring to the notice of the Government and the House is that many of these cars are not being used by the Princes, even though they bear the name of Palace Cars. There are many officers, sons and relatives of these Thampurans who are using these cars and they are getting exemptions. I think that the intention of the Government is that these Thampurans alone should be given

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

exemptions. If this privilege is extended to all who are using those cars, then I am afraid that the whole Nayar community of the State will be exempted from this. Therefore I wish that this aspect of the matter will have to be considered by the Government.

Mr. President.—This will be considered by the Government.

Amendment was not pressed.

Section 90 was put and carried.

Sections 99 to 101 was put and carried.

Mr. A. Eachara Menon *(Chittur Rural).*—I beg to move the following amendment:—

In section 102 (2) (c) substitute 'day break to day break' for "6. a. m. to 6. a. m." It is too much to expect of a contractor to keep a watch. If my amendment is accepted no practical difficulty can be caused.

Mr. K. M. Ibrahim *(Cranganur).*—I second this.

* **Mr. M. Sivarama Menon** *(Ernakulam South).*—I oppose this amendment. When we legislate it is always better to particularise or else it will lead to all sorts of complications. If you simply mention day break to day break how can you decide that it is day break at 6. 15 or 6. 30 or so on. There will be no exactness and you have to depend upon light. It will lead to complications. If it is 6. a. m. to 6. a. m., it will be precise. I may in this connection bring to the notice of the Government that there is another section of opinion which says that the passes should be issued from hour to hour. But I find no amendment tabled to that effect. What I want to bring to the notice of the House is that the provision in the Bill is more definite. So I oppose the amendment.

* **Dr. A. R. Menon** *(Pallippuram).*—I also oppose this amendment. There is a body of opinion which says that the pass could be made use of for one full day. There is no sanctity in fixing the time as 6. a. m. to 6. a. m. Suppose a man enters the Municipal limits at 4. a. m. He has to pay a toll. After staying in the Municipal limits for some 6 or 7 hours he goes out of the Municipality. And supposing he again wants to come to the Municipality, he will have to pay another toll. Of course I am

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

not moving an amendment. My suggestion is that for 24 hours from the time of issue he may be allowed to use that pass. The time may of course be put on the pass. I think that will be a proper remedy.

Amendment was put and lost.

Section 102 was put and carried.

Sections 103 to 108 were put and carried.

Mr. M. Sivarama Menon *(Ernakulam South).*—Sir, I move *in section 109 (b) delete the portion after 'companies' and substitute for it 'tax on profession and other sources of income'.* This is only a consequential amendment, and I request that it may be passed.

Amendment was put and carried.

Section 109 as amended was put and carried.

Sections 110 to 117 were put and carried.

Mr. T. S. Balarama Ayyar *(Trichur South).*—My amendment is that *in section 118, sub-section (3) sub-clause (d) between the words 'temples' and 'and' insert the word 'churches'.* This amendment is simply to clarify the position. Only temples and mosques have been mentioned in the section. Churches are more numerous than mosques in this State. So the word 'churches' may also be inserted. So also the word 'synagogue'.

Amendment as changed was put and carried.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I move the following amendment:—*Delete sub-clause (iv) of clause (e) of section 118(3).* A special necessity for deleting that was pointed cut by the Hon'ble Member for Ernakulam South and I am sure he will be in a position to explain it to the House.

Mr. M. Sivarama Menon *(Ernakulam South).*—Sir, I second the amendment. Now what this section does is to define what would be deemed to be water-supply for domestic purposes. In the water-works rules common to all Municipalities where there is already water supply or where there may be water supply in future, a rate is fixed with reference to domestic purposes and for other trade purposes. People dealing in

LIBRARY ARCHIVES Kerala Legislative Assembly

aerated water may come and claim water at the rate of Re. 1 even though they may be trading in them. This amendment is only to obivate any conflict with water works rules.

Amendment was put and carried.

Section 118 as amended was put and carried.

Sections 119 to 148 were put and carried.

Mr. A. Eachara Menon (*Chittur Rural*).—I move the following amendment:—*Add as section 148 A*: "*Whoever except with the written permission of the Chairman and in accordance with the conditions of such permission, stores or uses night soil or other manures or substances emitting an offensive smell shall be punished with fine which may extend to twenty-five rupees*". This amendment speaks for itself. In these days of aggrarian cultivation all kinds of animal and vegetable matter are stored up in the way sides to the great chagrin of those living near it and the wayfarer. I do not think that anybody will oppose this amendment.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I suppose there are provisions in the Bill itself.

Mr. A. Eachara Menon (*Chittur Rural*).—In that case I withdraw my amendment.

Amendment was by leave withdrawn.

Sections 149 to 161 were put and carried.

Mr. T. S. Balarama Ayyar (*Trichur North*).—I move that *in section 162, sub-section (4), sub-clause (b), substitute the word 'publication' for 'issue' and after the word 'order' add the words 'on the notice board of the Municipal Council'.*

Sir, this amendment is intended to make the section clearer and more workable and also to bring it in line with the Madras District Municipalities Act. This sub-section provides an appeal against the order grantiug licenses. The order granting a licence is issued to a particular party. The party who is aggrieved by the issue of such an order has absolutely no means to know when such an order was issued or whether such an order has been issued. How can a man who has got some grievance know that such an order has been issued. Here the appeal period is 30 days. In the District Municipalities Act it is 30 days from the date of the publication of the order on the notice board of the Council. Anybody who is aggrieved can

LIBRARY ARCHIVES Kerala Legislative Assembly

know of it since he has access to the notice board and put in a petition. I am only bringing it in line with the Madras Act.

Amendment was put and carried.

Section 162 as amended was put and carried.

Sections 163 to 182 were put and carried.

Mr. T. S. Balarama Ayyar (*Trichur North*).—Sir, I move that *in section 183, sub-section (2). line 3 between the words 'provide' and 'that' insert the letter (a) and after the word 'and' add the following:—*

'(b) that no site shall be used for the construction of a building intended for public worship if the construction of the building thereon will wound the religious feelings of any class of persons.'

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—There is already a separate Act for this purpose, viz., Act I of 1062.

Mr. T. S. Balarama Iyer:—(*Trichur North*).—In any case *the word 'and' at the end of sub-section (2) will have to be omitted.*

This amendment was put and carried.

Section 183 as amended was put and carried.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Sir, I move that *instead of the present proviso to section 104 the following shall be substituted:—*

"Provided that the Government may in respect of all Municipalities exempt all buildings or any class of buildings from all or any of the provisions of this Chapter or the said rules and in respect of particular Municipalities exempt any class of buildings from all or any of the provisions of this Chapter or the said rules'.

The only innovation introduced by me in the existing proviso is to the latter portion of the clause. In view of the Government's idea of undertaking town improvement work as early as possible and with the proximity of such works being undertaken the Government think that it may be necessary to prescribe more rigorous standards than the Municipalities may prescribe with regard to buildings. This power is intended to be reserved with them and only to be used when they consider that

LIBRARY ARCHIVES Kerala Legislative Assembly

their interference is necessary. This power is not intended to be used in the case of individual buildings but only in regard to a particular locality.

Mr. T. S. Balarama Ayyar (*Trichur North*).—Sir, I oppose this amendment. It is a very great deviation from the clause existing according to the report of the Select Committee as well as from the corresponding Madras section. Any order that the Government may pass affecting all the Municipalities is certainly allowable but to pass an order affecting a particular Municipality without the consent of that Municipality or ascertaining the views of that Municipality can not certainly be allowed. Unless you make out a case for such a violent departure from the Madras District Municipalities Act with regard to that particular provision, I cannot support this. I therefore oppose this amendment.

Mr. President.—We have now sold plots for building purposes in the new foreshore road and the Government propose to control stringently the buildings that are to be put up there. Ordinarily buildings can be put up there provided they satisfy the Municipality. But we have made it a condition that all buildings to be put up there should be approved by Government. Suppose the rules we prescribe come into conflict with the Municipal rules. If a man is bound by two sets of rules conflict is likey to arise. It is only to meet such exceptional cases we thought that the Government should take that power.

Mr. A. Sivarama Menon (*Mulakunnathukavu*)—The Municipal Council concerned may be consulted.

Mr. President.—At times the Municipality may refuse. Vested interest of the Municipality may oppose it. As a matter of fact the Municipalities have got appropriate sets of rules to control the construction of buildings. The municipalities find it difficult to control these rules. The Government can effectively enforce these rules. Interest of the municipality and that of the Government should not clash.

Mr. A. Sivarama Menon (*Mulakunnathukavu*).—The object of the amendment is clear. As it is, it is practically abrogating the functions of the municipality. While the buildings are to be strictly governed by the municipal Rules, this amendment enables the govt. to ignore the municipality altogether. My suggestion is as the Hon'ble member for Trichur north at least a provision for consultation should be made. Otherwise it looks as though the municipality is set at naught altogether.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. President.—The examination contemplated by Government is to make more rigorous rules and not to relax rules.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—But consultation does not stand in the way of attaining that object.

Mr. President.—But the municipality may oppose. If the Chairman has to depend upon that area for his votes, he himself will oppose it. It is to save him from this awkward situation we thought that we will take that power.

Mr. A. Sivarama Menon *(Mulamkunnathukavu).*—This can be done by Government in other places, only with the consent of the municipality concerned. Section 182 of the District municipalities Act says consent should be taken. Here, we do not go to that extent. I think, consultation is very fair and proper.

Mr. President.—It is provided there in the interests of town-planning. It is also based upon bitter experience.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—I do not find my way to agree with the view of the Government that they cannot even consult the municipality. Consulation does not mean taking consent.

Mr. President.—We have no objection for that,

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—With the permission of the house I suggest that the words 'after consultation' may be inserted between the words 'exempt' and 'all'.

Mr. President.—In that case we shall leave the clause as it is in the Bill.

Mr P. Kumaran Ezhuthassan *(Wadakkancheri).*—I shall like to know what is the kind of consultation that the Government is going to have. Is it to go through the empty formality?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I would put the amendment this way, Sir. *"Provided that the Government may in respect of all Municipalities or in respect of any particular Municipality or any portion thereof, after consulting that Municipality exempt all buildings or any class of buildings from all or any provisions of this chapter, etc."*

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—It is only a class or buildings which are to be exempted.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The general exemption may be for all. If you want any proviso, you shall have it in that form.

Mr. President.—I shall put the amendment in this way:—"*Provided that the Government may in respect of all Municipalities, after consulting the Municipal council, exempt all buildings or any class of buildings from all or any of the provisions of this chapter, etc.*".

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—In the case of orders issued to all municipalities, generally there is no idea of any consultation.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*— It is only in particular cases, this question arises.

Mr. Presidet.—Then we shall postpone that clause.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—There are no difficulties here. For the word 'consent' we shall put the word 'consult' and then redraft the proviso in an appropriate manner.

Mr. President.—Anyhow we shall postpone the discussion on this clause.

Clauses 185 to 231 were put and carried.

Mr. T. S. Balarama Ayyar *(Trichur North).*—My amendment is to sub-section 5 of section 232. Sub-section (a), if my amendment is accepted, will read as follows: "*If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation, the executive authority may subject to the approval of the Council postpone the execution of the decision of the Council for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works*". I do not think any speech is necessary here. We have very often been complaining against the very great powers conferred upon the executive authority. But at the same time this will not affect the carrying on of the affairs of the Municipality. The carrying out of the resolution cannot be postponed for 6 months unless it be with the approval of the Council.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—That means instead of giving discretion to the executive authority, the council is asked to change its views.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. S. Balarama Ayyar (*Trichur North*).—After six months the discretion of the Council alone prevails.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Now the executive authority is given the discretion to see in the case of repairs to a building, if adequate repairs are done. You say in respect of that, the Council must decide whether that six months' time may be given. But it is that same Council which has decided that the building should be demolished or repaired at once.

Mr. T. S. Balarama Ayyar (*Trichur North*).—The Council before coming to a decision, would have taken all those things into consideration.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—That is behind the back of the Council a decision arrived at by the Council is going to be suspended for six months.

Mr. T. S. Balarama Ayyar (*Trichur North*).—What is it that you are going to lose by asking the executive authority to get the approval of the Council. The executive authority will report that so and so has agreed to effect such and such repairs and as such some time has to be given to the man.

Mr. Thomas Manjuran (*Government Advocate and Law Officer.*)—That would mean that the executive authority who is granted certain discretion will not be trusted by the Council. He is given the discretion to watch whether a building which is tottering if sufficiently repaired will be out of danger. Therefore instead of saying that it is dangerous to vest powers with the executive authority, what the executive authority does is only to do an act of mercy if he is satisfied. I think there is no occasion for us to be extra-nervous about what the executive authority may or may not do. He is a man under the control of the Government and under the control of the Council. He must be presumed to be a responsible man.

Dr. A. R. Menon (*Pallippuram*).—He is not under the control of the Council. He cannot be removed by the Council.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—He can be removed under ordinary circumstances. But he cannot be removed on the caprice of one individual member or two members. For that there is no provision.

LIBRARY ARCHIVES Kerala Legislative Assembly

Dr. A. R. Menon (*Pallippuram*).—If you insert also half-a dozen nominations the matter becomes more difficult. Sir, I support this amendment. The section as amended will read: "If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation, the executive authority may, subject to the approval of the Council postpone the execution of the decision of the Council for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity for executing the necessary works." The only point is that the Council has decided that something must be done. The executive authority sits in judgment upon the decision of the Council. As it is he need not ask the Council. Why not he do it with the approval of the Council? Therefore what I say is nothing prevents him from reporting the matter to the Council that the time may be extended. What is the harm?

Mr. M. V. Cherian (*Mattancheri South*).—Sir, I oppose the amendment. Is it not the general practice that resolutions sponsered by the Chairman of the Council are carried out. Therefore if a building is to be pulled down, the Chairman together with the Council will pass a resolution. It will be with the full sympathy of the Chairman that the resolution is sponsered and it would be eventually passed also. The Chairman will then issue orders to the executive authority that the building should be pulled down immediately. If the executive authority thinks that there is no imminent danger and if he approaches the body that passed the resolution that the building should be pulled down within 24 hours, the same body will not be inclined to put off the demolition for a further period of two or three months. Therefore my submission is that this amendment is not necessary. The Hon'ble Member for Pallippuram may not be aware of things happening in certain Municipalities. For instance, we have had a woeful instance wherein we have had to approach the Government to issue a stay order. A portion of the Municipal Council supported by the Chairman wanted to pull down a building worth nearly a lakh of rupees within 24 hours. And it was also said in the order that if the building is not demolished within three days, the Municipal Council will be undertaking the demolition and recover the expenses from the party concerned. On our request the Assistant Engineer was deputed by Government to go and inspect the building. And the Assistant Engineer reported that there was no imminent danger. In spite of that the Chairman protested and sent a report covering 8 pages upholding his previous order that the building will fall down immediately. The Assistant Engineer took nearly 10 days to inspect the building and the building did

LIBRARY ARCHIVES Kerala Legislative Assembly

not fall during that period. It is only to prevent such capricious misuse of the powers the consent of the Council need not be added.

Mr. President.—It must be remembered that the extraordinary powers vested in the executive authority are to be exercised in favour of the citizens and not against them. No doubt the case Mr. Cheriyan pointed out is a typical case where a party within a Municipality appealed to the Government against the order of the Municipal Council to demolish his building. When the building was actually inspected by the Assistant Engineer we got a report from him that there is absolutely no danger there.

Mr. V. K. Krishnankutty *(Anthikad).*—Sir, I am not surprised with the attack launched upon this amendment by the hon'ble member for Mattancheri South. Suppose a resolution is passed by the Council to demolish a building. The party aggrieved is willing to re-construct it or to re-model it or to make other repairs to avert danger. He can well apply to the executive authority and the executive authority will place it before the Council and the Council will give him time enough, if he is prepared to avoid the danger. There is absolutely nothing incorrect or inconsistent in extending the time for demolishing or for re-constructing. I may be allowed to draw an analogy. If a Court passes a decree in favour of A that B should pay Rs. 1,000 to A; it is as well open to B to apply to the same Court to allow him to pay it in 10 instalments. It is only a case like that. The Municipal Council asks a certain citizen to demolish his building, because it endangers public safety.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—May I ask the hon'ble member whether in his own municipality of which he is a member how many times for weeks and months together the Council was not able to meet for want of a quorum. Therefore if the matter is entirely left to the municipal council there will be great difficulty.

Mr. V. K. Krishnankutty *(Anthikad).*—That is a different matter altogether. Is the hon'ble member for Law questioning the duties of municipal members and their responsibilities?

Mr. M. V. Cherian *(Mattancheri South).*—In the case I have pointed out the Chairman issued an order that a certain big building should be completely demolished within 3 days

LIBRARY ARCHIVES Kerala Legislative Assembly

There was no condition there that he must repair, he must take care in such and such a way, he must improve or he must support. It was a clear order for the demolition of a building worth about 80 thousand rupees. The building was fetching a rental of nearly 350 rupees per mensem. And if the Government did not give the order on Saturday evening itself, men were got ready there to pull it down. At about 5. 30 the order was communicated to him, because the next day was Sunday and the Government could not function and if the stay order had not been received that building would have been demolished by Sunday.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Was it the order of the Chairman or the Council?

Mr. M. V. Cherian (*Mattanchri South*).—It was the order of the Chairman.

Mr. T. S. Balarama Ayyar *(Trichur North).*—Here we are dealing with the powers of the Council.

Mr. V. K. Krishnankutty *(Anthikkad).*—The hon'ble member for Mattancheri South seems to have been prejudiced by his bitter experience, a single instance which might have occurred in the Municipal administration in Cochin. But we are legislating for the whole of Cochin State including Mattancheri. When a resolution was passed by the Trichur Municipal Council that a certain tank will not be open to certain communities, we find an appeal to the Government to stay the order of the Council and we got a stay order. The matter was stayed till the appeal was disposed. The appeal was heard and the order was reversed. Here also in a similar case as pointed out by the hon'ble member for Mattancheri South, the order was got from the Government reversing the order of the Chairman. It is quite possible. But in the present case a recalcitrant citizen may get hold of the executive authority and prolong the council's decision for six months at a time. So I whole-heartedly support the amendment.

Mr. C. R. Iyyunni *(Trichur South).*—My impression is that the hon'ble member for Mattancheri South has not read section 232 (1). The section says that if any building is found to be unfit for human habitation by the executive authority, he must go and inspect the building and make a report to the Council. The Council after going through the report passes a decision. Sufficient time is given to the party and then only

LIBRARY ARCHIVES Kerala Legislative Assembly

sub-section (5) comes into operation. Sub-section (5) gives another period of time for the executive authority either to demolish the building or to stop it. The case that has been cited is one where the Chairman has interfered. According to the Municipal Act that is in force now, the Chairman has the power. But here that is not the case. I will read here such portions of the section that are relevant for our purpose here "If any building or portion thereof intended for or used as a dwelling place appears to the executive authority to be unfit for human habitation . . ." So it is the executive authority that makes the report that the place appears to be unfit for human habitaton. Secondly, he may apply to the Council to prohibit, etc. When such prohibitory order has been made, the executive authority communicates the purport thereof to the owner or occupier of the structure and on expiry of such period as specified in the notice, not being less than thirty days after the service of the notice that no owner was allowed to use the structure. When the prohibitory order has remained in operation for three months, the executive authority shall report the case to the Council. The Council shall give the owner not less than thirty days' notice of the time and place at which the question will be considered and the owner shall be entitled to be heard when the question is taken into consideration. Then again another period is given. It not likely that the executive authority is a person who is liable to influences. Then what is the condition of the municipality. It is the executive authority that first makes the report and afterwards the prohibitory order is given. Sufficient time is also given to the party. Then the matter is placed before the Council. The Council passes the decision. It is to stay this decision that we give power to the executive authority. The Council is not even allowed an apportunity to ask the executive authority why he has stayed their decision? What is the meaning of all these? Why should there be such a sort of clemency to be shown towards a citizen? Suppose the executive authority makes a suggestion to the Council that the party is willing to give such support to the building as is necessary. Why should the Council be against the report of the executive authority? Even if the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation, there also the executive authority can postpone the execution for six months. Why should not the Council be consulted in such cases? It may be that there are in certain cases, as the Member for Law said, difficulties to hold a meeting. That does not mean that the executive authority should be given so much

LIBRARY ARCHIVES Kerala Legislative Assembly

power. The difficulty that has been suggested by the hon'ble member for Mattancheri does not arise here at all. There it is, as he put it, to satisfy the whim and fancy of one particular individual that this might have been indulged. Here also it is very probable that the executive authority may have his own whims and fancies. Such vast powers should not be entrusted to the executive authority upon whom there is very little control so far as municipalities are concerned. I therefore support the amendment.

Mr. T. S. Balarama Ayyar (*Trichur North*).—A word Sir. The word 'Government' may be used in the place of 'executive authority'.

Mr. A. V. Moothedan (*Chalakkudi*).—No use.

Mr. A. Sankara Menon (*Trippunithura*).—Sir, the point for discussion is this. The executive authority should exercise his descretion in favour of the citizen. It will also be seen from the section that action is taken by the Council first on the report of the executive authority. Before demolition is ordered, no time is given; or if the demolition is decided upon then, it is ordered that the building should be demolished. With regard to that order also, there is a qualification. Sub-section (2) lays down that 'when such prohibitory order has remained in operation for three months the executive authority shall report the case to the Council which shall thereupon consider whether the structure should not be demolished . . . .' That also shows that some discretion should be given to the executive authority before he carries out the order. I think there is no reason to restrict the discretion in any way by getting a fresh approval from the Council. The resolution of the Council is itself subject to the discretion given to the executive authority.

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—Mr. President, Sir, it has been stated here that the discretion given to the executive authority at the last stage to give a further lease of six months to a tottering building is only an authority which is to be used in favour of the citizen. That really is a delicate argument. But let us look at the case and see whether it is a case where the discretion vested in the executive authority is really used in favour of the citizen. The order is passed by the Council after undergoing various processes. These processes are, first there is the report of the executive authority that the building is unfit for occupation or human habitation. Then an opportunity is given to the owner

LIBRARY ARCHIVES Kerala Legislative Assembly

to show cause why a prohibitory order asking him not to occupy the building should not be made. After hearing him an order is passed that he is given a certain time to repair the building, etc., if it is possible to make it fit for human habitation. It is only failure of the party to repair the building that the prohibitory order is passed. The next stage is that that order must be communicated by the executive authority. Then again the party is heard. And if the Council finds that the structure has not been rendered fit for human habitation, it records its decision to that effect with the grounds of the decision. This is the fifth stage, and already six months have elapsed since it was first found by the executive authority that the building is not fit for human habitation. The giving to such a party another six months' time is certainly a discretion used in favour of a particuler citizen. The original report was made for safeguarding the interests of the persons in the neighbourhood also perhaps more in their interests than in the interests of the owner. The discretion is to be used for the safety of the inhabitants in the neighbourhood. For example, if a building tumbles down at a particular moment, it is not only the occupants of that particular building that will be affected but the persons in the neighbourhood also. Here the interests of not only one person, but more are involved. The discretion again should not be vested in one particular individual only. The executive authority should consult the Council before he gives another lease of six months. Why should the servant be given the right to rescind the orders of his master? And if unfortunately the executive authority is a man susceptible to influences of some kind or other the matter will assume a very dangerous position. The executive authority is given power as the section now stands to play with the decision of the Council as he likes, on influence being brought on him. He may be given the right to report the matter again to the Municipal Council recomending that a little more time may be granted. If it is really a fit case for such exercise of discretion, it shall be exercised by the municipality. There is nothing stupendous in the amendment tabled by the Hon'ble Member. In view of the fact that it is after all a sort of approval of the master to the recomendation of the servant that is sought to be relieved by the amendment I strongly support the amendment.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I oppose the amendment.

Amendment was put and negatived.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—A Poll, Sir.

For.	Against.
Mr. T. S. Balarama Ayyar.	Mrs. D'souza Williams
,, T. K. Nayar.	Mrs. Meenakshi N. Menon
,, V. K. Krishnankutty	Mr. E. F. Norman
,, K. M. Kunhi Moideen	,, George Parakkal
,, K. S. Panickar	,, K. S. Manickam
,, P. Kumaran Ezhuthassan	,, A. Sankara Menon
,, C. R. Iyyunni	,, M. V. Cheriau
,, K. M. Ibrahim	,, K. Kunhirama Menon
Dr. A. R. Menon	,, M. A. Sankunny
	,, K. Krishnan Vaidyar
	,, K. P. Kannan Nayar
	,, K. Achyuta Menon
	,, Thomas Manjuran
	Rao Sahib I. N. Menon.
	Mr. V. K. Aravindhaksha Menon
	Dr. D. Raghavendra Rao
	,, A. R. Puduval
	Mr. T. Narayana Menon
	,, Rama Varmha Tampuran
	,, P. J. George
	,, K. Narayana Menon
	,, K. Krishna Warriar
	,, V. K. Achyuta Menon
	,, A. L. Devassy

Amendment was therefore lost.

Sections 232 to 234 were put and carried.

The House rose for the day at 5. 5. p. m.

B. V. KRISHNANKUTTY MENON,

Secretary to the Council.

LIBRARY ARCHIVES Kerala Legislative Assembly